

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TESLA, INC.,
Petitioner

v.

GRANITE VEHICLE VENTURES LLC,
Patent Owner

Case IPR2025-00944
Patent 11,738,765

**PATENT OWNER'S PRELIMINARY RESPONSE
PURSUANT TO 37 C.F.R. § 42.107**

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Patent Trial and Appeal Board

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EXHIBIT LIST

Exhibit	Description
EX2001	Complaint for Patent Infringement, <i>Granite Vehicle Ventures LLC v. Tesla, Inc.</i> , DKT No. 1, Case No. 2:24-cv-01007-JRG, (E.D. Texas, December 6, 2024)
EX2002	Docket Sheet for <i>Granite Vehicle Ventures LLC v. Tesla, Inc.</i> , Case No. 2:24-cv-01007-JRG
EX2003	First Amended Docket Control Order for <i>Granite Vehicle Ventures LLC v. Tesla, Inc.</i> , DKT No. 42, Case No. 2:24-cv-01007-JRG, (E.D. Texas, April 10, 2025)
EX2004	Docket Control Order for <i>Granite Vehicle Ventures LLC v. Tesla, Inc.</i> , DKT No. 38, Case No. 2:24-cv-01007-JRG, (E.D. Texas, March 27, 2025)
EX2005	RESERVED
EX2006	Plaintiff's Notice of P.R. 3-1 and P.R. 3-2 Disclosures, for <i>Granite Vehicle Ventures LLC v. Tesla, Inc.</i> , DKT No. 49, Case No. 2:24-cv-01007-JRG, (E.D. Texas, April 28, 2025)
EX2007	Defendants' Notice of Compliance Regarding Patent Rule 3-4(a) Disclosures for <i>Granite Vehicle Ventures LLC v. Tesla, Inc.</i> , DKT No. 58, Case No. 2:24-cv-01007-JRG, (E.D. Texas, May 8, 2025)
EX2008	Defendants' Notice of Compliance Regarding Patent Rule 3-3 and 3-4 Invalidity Contentions, <i>Granite Vehicle Ventures LLC v. Tesla, Inc.</i> , DKT No. 74, Case No. 2:24-cv-01007-JRG, (E.D. Texas, June 5, 2025)
EX2009	Defendant's Invalidity Contentions served June 4, 2025
EX2010	Declaration of Blaine A. Larson in Support of Discretionary Denial Brief
EX2011	Protective Order for <i>Granite Vehicle Ventures LLC v. Tesla, Inc.</i> , DKT No. 52, Case No. 2:24-cv-01007-JRG, (E.D. Texas, April 28, 2025)
EX2012	Notice of Broadened Sotera Plus Stipulation of Defendant Tesla, Inc., <i>Granite Vehicle Ventures LLC v. Tesla, Inc.</i> , DKT No. 88, Case No. 2:24-cv-01007-JRG, (E.D. Texas, July 24, 2025)
EX2013	Patent Owner Statutory Disclaimer, filed August 8, 2025
EX2014	37 Federal District Court Cases for District Court Judge Rodney Gilstrap

Exhibit	Description
EX2015	Defendant Tesla, Inc.’s Amended and Supplemental Objections and Responses to Plaintiff Granite Vehicle Ventures LLC’s First Set of Interrogatories (Nos. 1–14) (Excerpted & Redacted) FILED UNDER SEAL

Granite Vehicle Ventures LLC (“Patent Owner”) respectfully requests the Board deny institution in this proceeding because the Petition filed by Tesla, Inc. (“Petitioner”) does not have a reasonable likelihood of prevailing on any claim of U.S. Patent No. 11,738,765 (“the ’765 patent”).

I. INTRODUCTION

Petitioner cannot prevail on any of the remaining challenged claims of the ’765 patent—claims 3–5, 8, 10–16, and 18–20. These claims are all directed to inventions used in self-driving vehicles (“SDVs”) that use “weighted voting” and “active learning data” in connection with particular determinations. The Grounds set forth in the Petition rely on combinations of a staggering number of alleged prior art references—no less than *four* references, and as many as *nine*. Unsurprisingly, Petitioner failed to show *how* or *why* an ordinary artisan would have combined all these references to achieve the particular features claimed. Moreover, despite the sheer volume of references cited, Petitioner still could not find all the limitations of the claims in the art.

First, Petitioner fails to show that any of the cited art discloses “active learning data” derived from “other SDVs,” which every claim requires. The Petition relies on an incorrect and overly broad interpretation of “active learning data” as *any data* whatsoever. But all challenged claims explicitly require that “active learning data” is

(1) used for “learning,” and (2) comes from “other SDVs.” Petitioner does not attempt to show that any of its alleged “active learning data” references meet either of these two requirements.

Second, the Petition proposes to combine between four and nine references for each challenged claim. The Petition fails to show a motivation to combine such a large number of references, including *Attard* (a core reference for every ground) and *An* (cited in arguments cross-referenced for every claim). This combination is critical to Petitioner’s obviousness theory regarding the claimed use of *weighted voting*. For example, claim 3 recites multiplying *weights* by one or more *inputs* that comprise *sensor readings*, which neither *Attard* nor *An* discloses. Moreover, the Petition proposes combining *An* with *Attard* based on generic reasoning that does not address this feature of the claimed *weighted voting*. The Petition then incorporates this deficient obviousness theory for claim 3, via cross-references, into its arguments for every other claim of the ’765 patent. Indeed, the Petition even incorporates these *weighted voting* arguments based on the *Attard-An* combination into Grounds ***for which An is not even cited***. Because this defective obviousness theory is incorporated against every claim, institution can be denied on this basis alone.

II. BACKGROUND

A. The Invention of the '765 Patent

The '765 patent is titled “Controlling Driving Modes of Self-Driving Vehicles,” EX1001 at (54), and includes inventions that relate to “controlling whether self-driving vehicles operate in autonomous mode or manual mode.” *Id.* at 1:25–28. The '765 patent names Michael S. Gordon, James R. Kozloski, Ashish Kundu, Peter K. Malkin, and Clifford A. Pickover as inventors. *Id.* at (72). The '765 patent claims priority through a chain of continuation applications to a non-provisional application filed September 25, 2015, *id.* at 1:8–15, and issued on August 29, 2023. *Id.* at (45).

The '765 patent describes its disclosure as relating “specifically to the field of self-driving vehicles” or SDVs, which it describes as, *e.g.*, “vehicles that are able to autonomously drive themselves through private and/or public spaces.” *Id.* at 1:19–20, 1:24–26. “[A]t any point in time[,] the SDV may be in autonomous mode or manual mode.” *Id.* at 6:12–13. “While in manual mode, SDV 202 operates as a traditional motor vehicle, in which a human driver controls the engine throttle, engine on/off switch, steering mechanism, braking system, horn, signals, etc. found on a motor vehicle.” *Id.* at 6:35–38. “While in autonomous mode, SDV 202 operates without the input of a human driver, such that the engine, steering mechanism,

braking system, horn, signals, etc. are controlled by the SDV control processor 303,” which is “under the control of the SDV on-board computer 301.” *Id.* at 6:45–49.

The ’765 patent also relates “to the field of controlling whether self-driving vehicles operate in autonomous mode or manual mode.” *Id.* at 1:20–23. The patent teaches that, to determine the mode in which the SDV should operate in certain embodiments, the SDV can calculate both the competence level of the vehicle’s control processor and the competence level of the human driver. *See id.* at 9:60–10:9, 10:58–11:3. Then, for example, “a query is made as to which competence level is higher: the control processor competence level (CPCL) or the human driver competence level (HDCL).” *Id.* at 11:54–57. Based on the results of said query, the SDV either remains in autonomous mode or switches to manual mode. *See id.* at 11:57–12:3.

Although the ’765 patent has several points of novelty over Petitioner’s combinations of references, for purposes of this preliminary response, Patent Owner will focus on the invention’s use of active learning data and weighted voting. For example, claim 3 recites:

3. The computer program product of claim 1, further comprising:

determining the control processor competence level comprises using a weighted voting system, the weighted voting system comprising:

a first plurality of inputs and a first plurality of weights, wherein the first plurality of inputs comprise sensor readings from a first camera sensor; and

multiplying at least one of the first plurality of inputs by a weight from among the first plurality of weights;

wherein the first plurality of weights are based on active learning data; and

wherein the active learning data includes weather condition data from a cohort of other SDVs, wherein the weather condition data shares one or more traits with the current weather condition of the roadway on which the SDV is currently traveling.

EX1001 at 21:60–22:9. Claim 5, which depends from claim 4 (and claim 4 depends from claim 3), recites structurally similar limitations involving the use of the *weighted voting system* in *determining a competence level of a human driver*. See *id.* at 22:23–37. Each of the remaining claims requires some form of one or both of these uses of *weighted voting*.

The '765 patent teaches that, in an embodiment, the SDV utilizes a weighted voting system “to weigh the various variables used in making [a] decision that is

triggered by faults.” *Id.* at 8:54–56. The patent further teaches an embodiment in which “processor(s) weight each of the sensor readings for different anomalous operational conditions of the vehicle, and then sum the weighted sensor readings for the anomalous operational conditions of the vehicle.” *Id.* at 13:64–14:1. Depending on the outcome of this determination, the SDV could be required to go into autonomous mode, or it could be required to go into manual mode. *See id.* at 14:14–21.

The ’765 patent also teaches that, in an embodiment, “active learning is employed so that the system as a whole learns from the experiences of many SDVs and drivers, in different geographies and among cohorts.” *Id.* at 9:1–4. More specifically, “the SDV 202 ‘learns’ about how significant operational anomalies are . . . by taking information from other SDVs and their driving history as well as the driving history of the SDV 202 itself.” *Id.* at 14:22–26. Thus, in certain embodiments, the SDV “learns” about the weight to be given certain detected operational anomalies by using active learning.

B. Patent Owner’s Disclaimer

On August 8, 2025, Patent Owner disclaimed claims 1, 2, 6, 7, and 17 of the ’765 patent. EX2013. Because of this disclaimer, Ground 1 (challenging claims 1, 2, and 17), Ground 2 (challenging claim 7), and Ground 5 (challenging claim 6) are all

moot. *See* 37 C.F.R. § 42.107(e). Grounds 3–4 and 6–11 remain, which collectively challenge claims 3–5, 8, 10–16, and 18–20. Petition at 2–3.

III. LEVEL OF ORDINARY SKILL IN THE ART

Petitioner proposes a person of ordinary skill in the art (“POSITA”) “would have had a bachelor’s degree in computer engineering, computer science, electrical engineering, mechanical engineering, physics, or a related field, with at least four years of experience in the field of vehicle telematics and safety systems, or a master’s degree in the same fields with at least three years of experience in the field of vehicle telematics and safety systems.” Petition at 1. It is unnecessary for Patent Owner to propose a competing definition at this time because, even under Petitioner’s proposed definition, Petitioner has failed to demonstrate a reasonable likelihood of success on any of the challenged claims. Patent Owner reserves the right to propose a different POSITA definition if the Board institutes IPR.

IV. CLAIM CONSTRUCTION: “ACTIVE LEARNING DATA”

The Petition must identify “[h]ow the challenged claim[s] [are] to be construed.” 37 C.F.R. § 42.104(b)(3). Petitioner purports to apply “the plain and ordinary meaning [sic] of all claim terms.” Petition at 4. Instead, Petitioner ignores the plain language of the claims to arrive at an improperly broad construction of the term “active learning data,” which is present in every challenged claim. According

to Petitioner, “active learning data” can be any data whatsoever, regardless of how it is used or where it comes from. This is inconsistent with the plain language of the claims. First, Petitioner ignores the word “learning” in “active learning data.” Second, Petitioner ignores the requirement, found in every claim, that the “active learning data” must come from “other SDVs.” By completely ignoring these claim elements, Petitioner has failed to show that any reference discloses “active learning data” within the plain meaning of the claims.

Petitioner implicitly construes the term “active learning data” as “any data” that comes from sources other than the self-driving vehicle of the invention, regardless of whether the data is used for “learning” and regardless of whether the data comes from other SDVs. *See, e.g.,* Petition at 55–56 (“*Kang* teaches unit 135 obtains weather information (*weather condition data*) from an external source (Internet) based on the vehicle’s GPS information or using onboard sensors. . . . Thus, *Kang* teaches *weights based on active learning data* that is *weather condition data*, i.e., the clear/rain/snow weights.”). Petitioner is forced to ignore the plain claim language because none of Petitioner’s references disclose using data for learning, and none disclose data obtained from other SDVs.

A. The Plain Meaning of “Learning”

The word “learning” in the phrase “active learning data” has its plain meaning, and is a claim limitation. The claimed “active learning data” must be used for learning; data that is not used for learning cannot satisfy this “learning” claim limitation. The specification provides examples of active learning:

In one or more embodiments of the present invention, *active learning* is employed so that the system as a whole *learns* from the *experiences of many SDVs and drivers*, in different geographies and among cohorts.

EX1001 at 9:1–4 (emphasis added). This shows “active learning data” is data that enables the system to “learn[] from the experiences” of other SDVs or their drivers.

The specification goes on to provide examples of things the system can learn:

In one or more embodiments of the present invention, the SDV 202 “*learns*” about how significant operational anomalies are. That is, by taking information from other SDVs and their driving history as well as the driving history of SDV 202 itself, SDV 202 is able to autonomously “*learn*” what operational anomalies are significant to the safe operation of SDV 202 (e.g., faulty brakes, faulty throttle controls, tires with little or no tread, etc.) and those which are comparatively insignificant (e.g., a cabin air conditioning system that is low on refrigerant, etc.).

EX1001 at 14:22–31 (emphasis added). This passage shows an example of the SDV improving its ability to operate by learning from experience about how significant various operational anomalies are. This confirms that the '765 Patent uses the term “learning” in the usual sense to refer to a process of using experience or data to improve in the future. A person who learns Spanish improves their ability to speak Spanish in the future. A person who learns how to ride a bike improves their ability to ride a bike in the future. An SDV that “learns” from data improves its ability to operate in the future.

The specification also distinguishes “active learning data” from mere “data.” The specification does not use the word “learning” in situations where data inputs are merely used to make one-off (*i.e.*, non-learning) determinations without the system learning or improving its capabilities. For example, the specification describes an embodiment where the SDV uses data from a positioning system to “determine[] a real-time current location” of the SDV. EX1001 at 5:33–35. The specification does ***not*** describe this one-off determination of position as “learning” because no learning or improvement is occurring. The system is simply using the data to make a one-shot determination about its current position. In another embodiment, the specification describes receiving an “environmental report” via a “data link” and using “the environmental report to describe the current condition of the roadway.” *Id.* at 13:2–

18. Again, the specification does **not** describe this process as “learning” and does **not** describe the environmental report data as “active learning data,” because no learning or improvement is happening in this embodiment. The SDV is simply making a one-off determination about the current condition of the roadway using the environmental report data.

In sum, the specification and claims confirm that the claim term “learning” has its ordinary meaning and cannot be ignored. Therefore “active learning data” does not simply mean “any data” as the Petition tries to argue. The Petition fails on all challenged claims because it does not identify data in the prior art that is used for “learning” or improvement of the system’s capabilities.

B. The Plain Meaning of “Other SDVs”

All challenged claims require that the “active learning data” must come from “other SDVs.” EX1001 at 22:5–6, 22:35–37, 23:30–32, 23:56–58, 24:37–38, 24:53–55, 24:65–67, 26:28–29, 26:60–62. The specification defines “SDV” to mean “Self Driving Vehicle.” *Id.* at 1:35–36. All claims require Petitioner to show that the claimed “active learning data” comes from other self-driving vehicles.

This further undermines Petitioner’s faulty position that “active learning data” can be “any data.” Data that does not come from SDVs but instead comes from other sources (e.g., the internet, GPS satellites, other vehicles that are not capable of self-

driving) does not satisfy the plain language of the claims. The Petition again fails on all challenged claims because it does not identify any data that comes from other SDVs.

V. THE PETITION FAILS TO SHOW A REASONABLE LIKELIHOOD OF PREVAILING AS TO ANY CLAIM

The Petition should be denied because it fails to show a likelihood of prevailing as to any of challenged claims 3–5, 8, 10–16, and 18–20.¹ First, Petitioner fails to show that any of the cited references disclose the claimed “active learning data.” In fact, none of Petitioner’s “active learning data” references (*Kang, Schunder, Gunderson*) disclose “learning” and none disclose data that comes from other SDVs, which are both explicit requirements of all challenged claims. Second, despite the fact that Petitioner relies on a staggering number of references for each challenged claim (4 to 9 references), Petitioner fails to show *how* or *why* an ordinary artisan would have combined the cited references to arrive at the particular uses of *weighted voting* and *active learning data* required by the claims.

¹ Claims 1, 2, 6, 7, and 17 have been disclaimed, and “[n]o [IPR] will be instituted based on disclaimed claims.” 37 C.F.R. § 42.107(e).

A. Petitioner Cannot Prevail Because It Fails to Show That Any Reference Teaches “Active Learning Data”

Each of the challenged claims recites “active learning data.” Depending on the specific Ground, Petitioner relies on one or more of three references—*Kang*, *Schunder*, and *Gunderson*—to teach using *active learning data* in the manner recited by the claims. None of these three references teaches this limitation. In particular, none of these references disclose “learning” and none disclose data that comes from other SDVs.

1. Grounds 3–4, 6, and 9–11 Fail Because Neither *Kang* nor *Schunder* Discloses *Active Learning Data*

Petitioner cannot prevail as to any of the claims challenged under Grounds 3–4, 6, and 9–11 because the references on which Petitioner relies² (*Kang* and *Schunder*) do not disclose *active learning data*. As discussed above, Petitioner’s arguments to

² Petitioner relies on *Schunder* alone for the *active learning data* of Ground 6. See Petition at 77 (“*Hampiholi-Attard-DeRuyck-Schunder* teaches using active learning data including information from other SDVs.”) (citing “Claim 3”); *id.* at 58–61 (arguing *Schunder* provides this teaching for claim 3). Petitioner relies on the combination of *Kang* and *Schunder* for *active learning data* limitations of the claims challenged under Grounds 3–4 and 9–11. See *id.* at 55–67, 83–86.

the contrary rely on an incorrect and overly broad interpretation of the term “active learning data” that reads out “learning” and the requirement that such data must come from “other SDVs.” For each of the two references, the Petition argues that some disclosed data is “active learning data” based solely on the fact that the data comes from a source other than the alleged SDV of the invention. Petition at 55–56, 58–59. As shown above, that is not enough to establish that the disclosed data is the claimed *active learning data*. See §§ IV.A, IV.B, *supra*. The Grounds that rely on *Kang* and *Schunder*, therefore, fail on their merits for at least this reason.

Kang. The Petition states that “*Kang* teaches unit 135 obtains weather information (*weather condition data*) from an external source (Internet) based on the vehicle’s GPS information or using onboard sensors.” Petition at 55 (citing EX1009 at 9:32–49). Based on this, and without any explanation in either the Petition or the accompanying declaration, Petitioner asserts *Kang*’s weather information is “*active learning data* that is *weather condition data*.” *Id.* at 56; see EX1003 ¶ 201. Petitioner’s contention that *Kang* teaches *active learning data* is premised solely on *Kang*’s disclosure that “weather information collecting unit **315** obtains rain or snowfall information from current location information transmitted from the GPS and weather information provided from the Internet.” EX1009 at 9:44–47. The rest of the discussion regarding *Kang* in both the Petition and the accompanying declaration

relates to a distinct limitation. *See* Petition at 55–56 (arguing that *Kang* teaches one or more weights are based on the alleged *active learning data*); EX1003 ¶¶ 200–01 (similar).

First, *Kang* does not teach that its “weather condition data” is used for any sort of “learning,” and Petitioner does not identify any alleged “learning” happening in *Kang*. Petitioner therefore fails to show that *Kang*’s data is “active *learning* data.”

Second, *Kang* explicitly states that its “weather condition data” comes from the “Internet.” *Kang* does not say, and Petitioner does not argue, that *Kang*’s “weather condition data” comes from other SDVs. Petitioner therefore fails to show that *Kang*’s data comes from “other SDVs” as all challenged claims explicitly require.

Schunder. Petitioner’s reliance on *Schunder* lacks merit for the same reasons: Petitioner relies on the same incorrect interpretation of the term “active learning data” that reads out “learning” and “other SDVs.” Petitioner argues that “*Schunder* teaches a server receives weather data and GPS coordinates from vehicles” and “transmits weather data to vehicles including based on their location along a route.” Petition at 59. Petitioner contends that this “weather report [from the server] includes *active learning data* from other vehicles including vehicles in the same area or roadway, i.e., *a cohort*, as the requesting vehicle.” *Id.*

First, like *Kang*, *Schunder* does not teach that its “weather data” is used for any sort of “learning,” and Petitioner does not identify any alleged “learning” happening in *Schunder*. Petitioner therefore fails to show that *Schunder*’s data is “active *learning* data.”

Second, Petitioner alleges *Schunder*’s weather data is received by a server from “vehicles” or “automobiles.” *Schunder* never teaches obtaining data from *self driving* vehicles, as the claims require. Petitioner does not make any attempt to argue that *Schunder*’s weather data is obtained from *self driving* vehicles. Petitioner therefore fails to show that *Schunder*’s data comes from “other SDVs” as all challenged claims explicitly require.

2. Grounds 4, 7–8, and 10–11 Fail Because *Gunderson* Does Not Disclose *Active Learning Data*

Petitioner cannot prevail as to any of the claims challenged under Grounds 4, 7–8, and 10–11 because *Gunderson*³ also does not disclose the claimed *active learning data*.

³ Petitioner relies on *Gunderson* alone for the *active learning data* limitation added by claims 5 and 20 (Ground 4). Petition at 67–71. (Claims 5 and 20 depend from claims 3 and 18 (Ground 3), both of which recite a separate *active learning data*

Petitioner argues that *Gunderson* describes aggregating and analyzing “event data” at a server, and that this “event data” is active learning data. Petition at 68. But the Petition does not show the “event data” is used for “learning” or that it comes from “other SDVs.” Instead, the Petition assumes yet again that *any* data from sources other than the SDV of the claims must be *active learning data*. See Petition at 68. As shown above, such an interpretation of the claims is contrary to the plain language of the claims and the intrinsic evidence. See §§ IV.A, IV.B, *supra*.

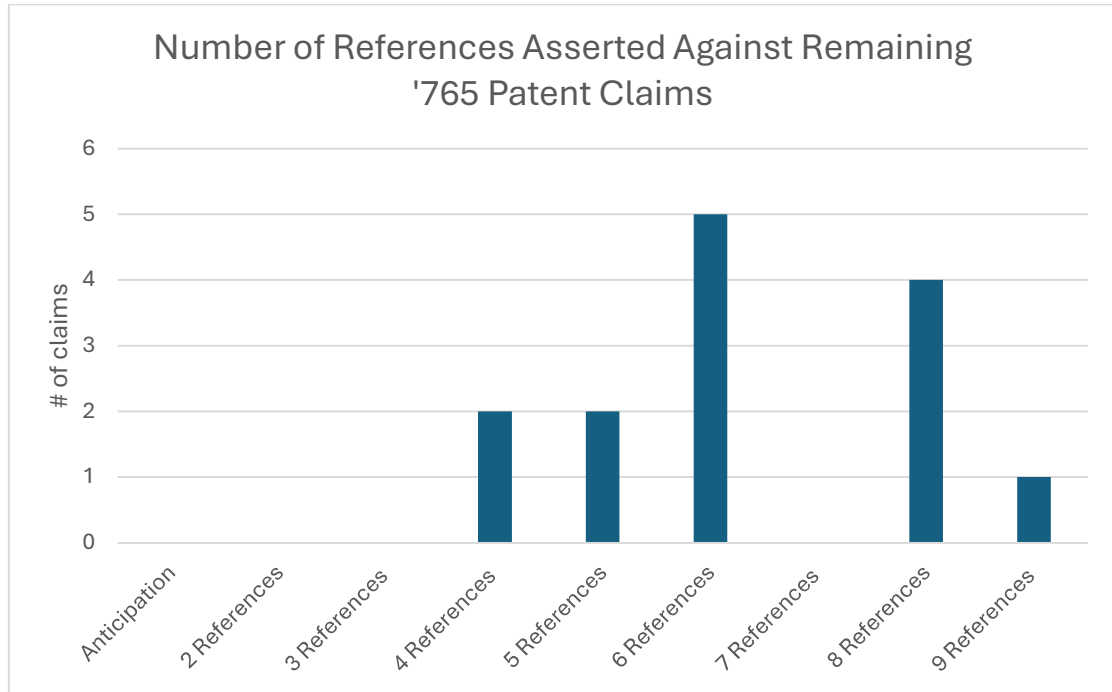
As with *Kang* and *Schunder*, *Gunderson*’s “event data” is not used for “learning.” Petitioner does not even attempt to show that *Gunderson*’s “event data” is used for “learning.” Rather than being used for learning, Petitioner only alleges the event data is stored in a “database,” with no further explanation. Petition at 68. Petitioner therefore fails to show that *Gunderson*’s data is “active *learning* data.”

limitation, for which the Petition relies on *Kang* and *Schunder*. *Id.* at 55–61, 63.) Petitioner relies on cross-referencing its claim 5 arguments for the claims challenged under Grounds 7–8 and 10–11, which all include substantially similar limitations. Compare EX1001 at 23:56–58, 23:56–58 (claims 10 and 14) with *id.* at 22:35–37 (claim 5). See Petition at 77–87; EX1001 at 23:59–24:24 (claims 11–12 depending from claim 10), 25:28–50 (claims 15–16 depending from claim 14).

Petitioner also does not attempt to show that *Gunderson*'s "event data" comes from "other SDVs." At most, Petitioner alleges the "event data" comes from a "vehicle," but does not allege or show it comes from a "other *self driving* vehicles." *Id.* Petitioner therefore fails to show that *Gunderson*'s data comes from "other SDVs" as all challenged claims explicitly require.

B. Petitioner Cannot Prevail Because It Fails to Show a Motivation to Combine the Cited References to Achieve the Claimed Invention

Petitioner does not allege that any one reference discloses or suggests using *weighted voting* or *active learning data* in the particular manner claimed. *See* Petition at 52–61, 64–70. Rather, each Ground in the Petition relies on a staggering number of references. As shown in the chart below, the Petition relies on between four and nine references for each claim (six to nine references for ten of the fourteen challenged claims):



See Petition at 2–3; EX2013.

Trying to cobble together teachings from a half dozen or more references is a red flag that Petitioner is relying on hindsight-motivated reasoning. A Petition that relies on such a large patchwork of references needs to justify its approach: why would a skilled artisan be motivated to combine a half dozen or more references to reach the particular combination recited in the claims? Rather than face this burden head on, the Petition avoids the actual claim language and relegates the text of the challenged claims to an appendix, to which it only cites once in a footnote. *See id.* at 6 n.2, 92–100.

As discussed in detail below, the Petition fails to provide a motivation to combine the references, particularly as to the “weighted voting” and “active learning data” claim elements.

1. There Is No Evidence That an Ordinary Artisan Would Have Combined the Cited References to Arrive at Claim 3

Petitioner cannot prevail on its challenge against claim 3 because the Petition “fails to explain why a person of ordinary skill in the art would have combined elements from specific references *in the way the claimed invention does.*” *ActiveVideo Networks, Inc. v. Verizon Communs., Inc.*, 694 F.3d 1312, 1328 (Fed. Cir. 2012).

Claim 3 recites:

[3(Pre)]⁴ 3. The computer program product of claim 1, further comprising:

[3(a)] *determining the control processor competence level comprises using a weighted voting system, the weighted voting system comprising:*

[3(a)(i)] a first plurality of inputs and a first plurality of weights, *wherein the first plurality of inputs*

⁴ The bracketed designations are those applied by Petitioner. *See* Petition at 93. Patent Owner uses these designations only for clarity and convenience and does not concede these designations appropriately parse the claim language.

comprise sensor readings from a first camera sensor;
and

[3(b)] *multiplying at least one of the first plurality of inputs by a weight* from among the first plurality of weights;

[3(b)(i)] wherein the first plurality of weights are based on active learning data; and

[3(b)(ii)] wherein the active learning data includes weather condition data from a cohort of other SDVs, wherein the weather condition data shares one or more traits with the current weather condition of the roadway on which the SDV is currently traveling.

EX1001 at 21:60–22:9 (claim 3) (italics added).

Nothing in any cited reference teaches or suggests *determining the control processor competence level comprises using a weighted voting system* where the inputs *comprise sensor readings from a first camera sensor*, together with *multiplying at least one of the first plurality of inputs by a weight from among the first plurality of weights*. Indeed, Petitioner never contends these limitations are found in any single reference, relying instead on the combination of *Attard* and *An* for the various aspects of these limitations. See Petition at 52–55. There is no evidence, however, that an ordinary artisan would have been motivated to combine *Attard* and *An* to achieve the

subject matter of the weighted voting limitations Petitioner identifies as 3(a), 3(a)(i), and 3(b).

First, there is no evidence that *Attard* and *An* (even in combination) disclose using a *weighted voting system* in which the *first plurality of inputs comprise sensor readings from a first camera sensor* as required by claim 3.

Petitioner alleges that *An* discloses a *weighted voting system* for computing an “autonomous driving state risk index.” Petition at 53 (quoting EX1008 at 6:4–8, Eq. 7). But Petitioner concedes that the *inputs* in the alleged *weighted voting system* are “error” values—“recognition error,” “determination error,” “control error,” and “map data error.” *Id.* These are not sensor readings from a *camera*. The Petition thus relies, in vain, on the assertion that “[i]n the *Attard* combination, inputs include *Attard’s* camera sensor readings, which are weighted per *An*.” Petition at 53 (citing “3(a)(i)”).

That assertion has no support. Given the lack of supporting evidence, Petitioner instead plays a shell game with cross-references and word substitution. Petitioner first cites its discussion of limitation 3(a)(i) to support its assertion that the “inputs include *Attard’s* camera sensor readings.” Petition at 53 (underline added). But the discussion of 3(a)(i) does **not** show that *Attard’s* alleged *camera sensor readings* are *inputs to the weighted voting system*. See *id.* at 54. Even if “*Attard* taught a system of sensors 110 (‘sensor readings’),” Petition at 54, *Attard* does not teach that these *sensor*

readings are multiplied by weights, as Petitioner asserts. *See id.* at 54–55 (asserting that “*Attard’s* camera readings” are multiplied “*by a weight* (e.g., W_1)” from *An*) (cross-referencing *inter alia* “3(a)”). In the cross-referenced discussion of limitation 3(a), the Petition does not actually purport to show that *Attard* teaches weighting *camera sensor readings*; rather, it asserts that “*Attard* teaches weighting *determinations*.” Petition at 52 (emphasis added).

Petitioner thus relies on a bait-and-switch, substituting the phrase “camera sensor readings” (pulled from other parts of *Attard’s* disclosure) for the word “determinations,” the only thing *Attard* mentions “weighting.” *See id.* For example, the Petition conflates the weighted “determinations” with “sensor readings,” arguing the combination would result in “weighting the various inputs (e.g., sensor determinations).” Petition at 53 (underline added). There is no basis to conclude (as Petitioner does) that *Attard* “provides an express teaching, suggestion, and motivation for combining with *An*” in a manner that results in the claimed invention.

In addition, the Petition’s assertion that “weighted voting” would have “provid[ed] greater accuracy” is generic because it bears no relation to the recited limitations of the *weighted voting system*. Petition at 54. Such reasoning is legally insufficient to establish obviousness. *See ActiveVideo Networks*, 694 F.3d at 1328 (holding “the record evidence was insufficient” to show motivation to combine where

it was “generic and bears no relation to any specific combination of prior art elements”). Petitioner’s reliance on generic reasoning also reveals that its obviousness rationale is improperly based on litigation-inspired hindsight. *TQ Delta, LLC v. Cisco Sys.*, 942 F.3d 1352, 1360–61 (Fed. Cir. 2019) (reiterating concerns that crediting conclusory and unsupported obviousness rationale invites challengers to use “impermissible *ex post* reasoning and hindsight bias”). When the teachings of the cited art are viewed through the lens of an ordinary artisan at the time of the invention, as the law requires, *see In re Cyclobenzaprine Hydrochloride Extended-Release Capsule Patent Litig.*, 676 F.3d 1063, 1069 (Fed. Cir. 2012) (holding district court “was [] required to consider . . . whether [a limitation missing from the prior art] would have been obvious *to one of ordinary skill in the art at the time of the invention*”) (emphasis added), there is no evidence of a motivation to combine, *e.g.*, *Attard* and *An* to achieve the limitations of claim 3 for which that combination is cited.

For at least this reason, Petitioner cannot prevail as to claim 3.

2. Petitioner Cannot Prevail on Claims 8 and 10 Because Its Arguments Rely on the *Attard-An* Combination; *An* Is Not Even Part of the Asserted Grounds

The Petition fails to show a reasonable likelihood of prevailing on claims 8 and 10 because Petitioner’s obviousness arguments for those claims rely on the fatally

deficient rationale for combining *Attard* and *An*. Independent of that fatal deficiency (as shown in the previous section), the Grounds challenging claims 8 and 10 do not even assert *An* as one of the cited references. Petitioner’s reliance on *An*, a reference that it has not asserted against those claims, is also fatal to those obviousness challenges.

First, *An* is not cited against either claim 8 or claim 10. *See* Petition at 3. Ground 6 (challenging claim 8) is based on “*Hampiholi, Attard, Frazer, DeRuyck, and Schunder*.” *Id.* Ground 7 (challenging claims 10 and 11) is based on “*Hampiholi, Attard, DeRuyck, and Gunderson*.” *Id.* Petitioner’s incorporation of arguments about the combined teachings of *Attard* and *An*—a reference that forms no part of the challenges to claims 8 and 10—renders those challenges fatally flawed. Moreover, this flaw is independent of Petitioner’s failure to establish a motivation to combine *Attard* and *An*; this is yet another reason why Petitioner cannot prevail as to claims 8 and 10.

Second, the Petition incorporates its argument regarding limitation 3(a) and the *Attard-An* combination to support the proposed motivation to modify *Attard* to use *weighted voting*.

For the limitation of claim 8 that Petitioner designates “8(b)” —“determining the competence level of the processor comprises weighted voting,” Petition at 95—

the Petition’s entire argument consists of an unexplained cross-reference to the argument for limitation 3(a). *See id.* at 77. As shown above, Petitioner’s argument for limitation 3(a) relies on the faulty *Attard-An* combination, for which combination Petitioner fails to establish a motivation. Similarly, in arguing that limitation “8(d)” would have been obvious, the Petition cross-references generally the entire argument for “Claim 3.” *Id.* Again, this includes the fatally deficient arguments regarding the *Attard-An* combination.

Also regarding limitation “8(d),” the Petition omits any reason why (as Petitioner asserts) “[a] POSITA would have understood or found obvious that [the alleged] active learning data would [] have been used to determine a corrective action (e.g., issuing a warning, slowing the vehicle).” *Id.* (citing EX1003 ¶ 290). This improper attempt to bootstrap an obviousness argument from the supporting declaration (EX1003) violates the Board’s regulations. *See* 37 C.F.R. § 42.6(a)(3) (“Arguments must not be incorporated by reference from one document into another document.”). Incorporating the cited argument, however, only demonstrates the extent to which the Petition relies on the fatally deficient *Attard-An* combination of claim 3 for the arguments about claim 8. This is because the rationale offered in the declaration starts from the premise that “the *active learning data* from the *Hampiholi-*

Attard-An-Kang-Schunder system is used to *determine the competence level of the processor.*” EX1003 ¶ 290 (boldface added, italics in original).

Third, the Petition’s arguments regarding the substantive limitations of claim 10 consist of nothing but unexplained cross-references to arguments about claim 5. Petition at 77–78. Claim 5 depends from claim 3, and the Petition’s arguments about claim 5 rely on the fatally deficient *Attard-An* combination used in the claim 3 arguments. *See id.* at 64–70. For example, the Petition’s argument for limitation 5(a) starts from the proposition that “***Attard-Frazer-McNew-An-Kang-Schunder*** teaches a *weighted voting system*,” for which Petitioner cites “Claim 3” generally. *Id.* at 64 (boldface added, italics in original). For limitation 5(a)(i), Petitioner relies on its contentions that “*Attard* teaches a first camera sensor and *first plurality of inputs* from said sensor,” *id.* at 65 (citing “1(a), 3(a)”), and that “*Attard-An* also already teaches weighted voting and camera sensors,” *id.* at 67; *see also id.* at 70 (“*Attard* also teaches weighting determinations. . .”) (citing “3(a)”). But, as shown above, those contentions are not supported by the record.

The Petition’s claim 5 arguments therefore fail for the same reasons as the claim 3 arguments on which they rely. Moreover, because Petitioner’s arguments for claim 10 incorporate the arguments for claim 5 wholesale and rely completely on

those arguments without any further explanation or qualification, the challenge to claim 10 must likewise fail.

3. The Fatal Defects as to Claims 3, 8, and 10 Are Fatal to the Challenges Against Every Other Claim

The fatal defects in the Petition's challenges to claims 3, 8, and 10 are likewise fatal as to every other remaining challenged claim in the '765 patent.

First, claims 13, 14, and 18 each include limitations substantially similar to limitations 3(a), 3(a)(i), and 3(b). *Compare* EX1001 at 21:62–22:2 *with id.* at 24:27–34, 24:56–64, 26:18–25. *See also* Petition at 96–99 (designating corresponding limitations as 13(a), 13(a)(i), 13(b), 14(b), 14(b)(i)–(ii), 18(a), 18(a)(i), and 18(b)). The arguments regarding these limitations merely cross-reference the arguments about the corresponding limitations of claim 3. *See* Petition at 63, 83–84. Because the challenges to claims 13, 14, and 18 rely on the fatally deficient arguments for claim 3, those challenges likewise fail for the same reasons.

Second, claims 4–5 depend from claim 3, claims 11–12 from claim 10, claims 15–16 from claim 14, and claims 19–20 from claim 18. *See* EX1001 at 22:10–37, 23:59–24:24, 25:28–50, 26:34–62. The Petition relies on the arguments relating to the base claims for the challenges to the dependent claims. *See* Petition at 62–64, 70, 78, 81, 86. The failure to establish obviousness for the base claims is also fatal to the challenges against the dependent claims.

VI. CONCLUSION

For at least the reasons set forth herein, Patent Owner respectfully requests the Board deny the Petition and decline to institute IPR in this proceeding.

Dated: September 10, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that pursuant to 37 C.F.R. § 42.6(e), a copy of the foregoing **Patent Owner's Preliminary Response Pursuant to 37 C.F.R. § 42.107** was served to the following counsel of record for Petitioner addressed as follows:

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CERTIFICATE OF COMPLIANCE

Pursuant to 37 C.F.R. § 42.24(d), the undersigned hereby certifies that this brief complies with the type-volume limitation of 37 C.F.R. § 42.24 because this brief contains 5,969 words.

Dated: September 10, 2025

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